

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

TERRY GELTMACHER AND
KATHY GELTMACHER

Plaintiffs,

v.

WELLS FARGO BANK, N.A.

Defendant.

Civil Action No.

**WELLS FARGO BANK, N.A.'S
NOTICE OF REMOVAL OF
ACTION UNDER 28 U.S.C. § 1331
(FEDERAL QUESTION
JURISDICTION)**

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA, PLAINTIFFS, AND
PLAINTIFFS' COUNSEL OF RECORD:**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Wells Fargo Bank, N.A. ("Wells Fargo") removes the above-captioned action from the Monroe County Court of Common Pleas, to the United States District Court, Middle District of Pennsylvania. Wells Fargo is entitled to removal pursuant to 28 U.S.C. § 1331, based on federal question jurisdiction. In support of this Notice of Removal, Wells Fargo states as follows:

1. On or about November 22, 2016, an action was commenced in the Monroe County Court of Common Pleas entitled *Terry Geltmacher and Kathy*

Geltmacher v. Wells Fargo Bank, N.A., Civil Action No. 8762-cv-2016 (the “State Court Action”). Plaintiffs assert a claim for (1) Violation of the Telephone Consumer Protection Act (47 U.S.C. § 227 *et seq.*). A copy the pleadings in the State Court Action, including summons and complaint, are attached to this Notice as Exhibit A.

2. This Notice of Removal is timely under 28 U.S.C. § 1446(b) and Fed. R. Civ. P. 6(a)(3) because the State Court Action was served on December 5, 2016. Therefore, this notice of removal is filed within thirty days after service and within one year of the original filing of the complaint. Plaintiffs have consented to allow Wells Fargo through and including January 17, 2017 to respond to the Complaint.

3. This Court has subject matter jurisdiction over this action and all claims asserted against Defendant pursuant to 28 U.S.C. § 1333, and removal is proper pursuant to 28 U.S.C. § 1441.

4. Venue in this Court is proper pursuant to 28 U.S.C. § 1441(a), which allows a defendant to remove “any civil action brought in a State court of which the district courts of the United States have original jurisdiction.” The United States District Court for the Middle District of Pennsylvania is the federal judicial district and division embracing the Monroe County Court of Common Pleas, where the State Court Action was originally filed.

5. Pursuant to 28 U.S.C. § 1446(d), Defendant is filing this notice of removal with this Court, serving a copy of this notice upon Plaintiffs, and filing a copy in the Monroe County Court of Common Pleas. Written notice of the filing of this Notice of Removal is also being provided to Plaintiffs through their counsel of record, as well as to the Prothonotary of the Monroe County Court of Common Pleas. A copy the written notice of the filing of this Notice of Removal is attached as Exhibit B.

Federal Question Jurisdiction

6. The Complaint names a claim for violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”). The claim therefore presents a federal question within the meaning of 28 U.S.C. § 1331, as it arises under the laws of the United States. *See Mims v. Arrow Financial Services, LLC*, 132 S. Ct. 740, 753 (2012) (holding federal courts have original jurisdiction to hear TCPA claims pursuant to 28 U.S.C. § 1331.)

7. Defendant Wells Fargo reserves all of its defenses, including, without limitation, the right to amend or supplement this Notice of Removal.

WHEREFORE, Defendant Wells Fargo Bank, N.A. prays that the State Court Action be removed from state court to this Court and that this Court assume jurisdiction over the action and determine it on the merits.

Dated this 4th day of January, 2017.

By: /s/ Martin C. Bryce, Jr.

Martin C. Bryce, Jr. (PA Bar No. 59409)

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant Wells Fargo Bank, N.A.'s Notice of Removal was electronically served on this date upon the following:

Brett Freeman, Esq.
Sabatini Law Firm, LLC
216 N. Blakely Street
Dunmore, PA 18512

Attorney for Plaintiffs

By: /s/ Martin C. Bryce, Jr.
Martin C. Bryce, Jr.

Dated: January 4, 2017